

Assembly Bill No. 2546

Passed the Assembly August 21, 2014

Chief Clerk of the Assembly

Passed the Senate August 14, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 31468 of, and to add Section 31552.5 to, the Government Code, and to add Chapter 5.5 (commencing with Section 101852) to Part 4 of Division 101 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2546, Salas. Kern County Hospital Authority.

Existing law authorizes the board of supervisors of certain counties to establish a hospital authority for the management, administration, and control of certain medical facilities.

This bill would authorize the board of supervisors of the County of Kern to establish, by ordinance, the Kern County Hospital Authority to manage, administer, and control the Kern Medical Center and for the operation of additional programs, clinics and other facilities, care organizations, physician practice plans, and delivery systems that may be affiliated or consolidated with the medical center. The bill would also authorize the establishment of the authority to negotiate and enter into contracts to provide or arrange, or provide directly, on a fee-for-service, capitated, or other basis, health care services to specified individuals.

The bill would require the board of supervisors, in the enabling ordinance, to establish the terms and conditions of the transfers to the authority from the county, which includes, among other things, any transfer of real and personal property. The bill would require the authority to be governed by a board of governors, and would require the board of supervisors, in the enabling ordinance, to specify, among other things, the number of members and composition of membership of the board of governors and the qualifications of members.

The bill would grant to the authority, among other powers, the duties, privileges, immunities, rights, liabilities, and limitations of a local unit of government within the state. The bill would specify that the transfer to the authority of the management, administration, and control of the medical center does not affect the eligibility of the county for, but authorizes the authority to participate in and receive, various sources of funding, as specified, including various

Medi-Cal programs. The bill would require the board of supervisors to adopt, and the authority to implement, a personnel transition plan that requires specified actions, including ongoing communication to employees and recognized employee organizations regarding the impact of the transition on certain existing employees and employee classifications.

The bill would authorize the board of supervisors to find and declare that the authority ceases to exist, and in that event, the bill would require the board of supervisors to provide for the disposition of the authority's assets, obligations, and liabilities, as specified.

Existing law, the County Employees Retirement Law of 1937, authorizes counties to establish retirement systems, as specified, in order to provide pension benefits to county, city, and district employees. Existing law defines a district for these purposes as a district, formed under the laws of the state, located wholly or partially within the county other than a school district.

This bill would include the authority within the definition of district and would authorize employees of the authority to participate in the Kern County Employees' Retirement Association, as specified.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

This bill would incorporate additional changes to Section 31468 of the Government Code proposed by SB 673 that would become operative if this bill and SB 673 are both enacted and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Section 31468 of the Government Code is amended to read:

31468. (a) "District" means a district, formed under the laws of the state, located wholly or partially within the county other than a school district.

(b) “District” also includes any institution operated by two or more counties, in one of which there has been adopted an ordinance placing this chapter in operation.

(c) “District” also includes any organization or association authorized by Chapter 26 of the Statutes of 1935, as amended by Chapter 30 of the Statutes of 1941, or by Section 50024, which organization or association is maintained and supported entirely from funds derived from counties, and the board of any retirement system is authorized to receive the officers and employees of that organization or association into the retirement system managed by the board.

(d) “District” also includes, but is not limited to, any sanitary district formed under Part 1 (commencing with Section 6400) of Division 6 of the Health and Safety Code.

(e) “District” also includes any city, public authority, public agency, and any other political subdivision or public corporation formed or created under the constitution or laws of this state and located or having jurisdiction wholly or partially within the county.

(f) “District” also includes any nonprofit corporation or association conducting an agricultural fair for the county pursuant to a contract between the corporation or association and the board of supervisors under the authority of Section 25905.

(g) “District” also includes the Regents of the University of California, but with respect only to employees who were employees of a county in a county hospital, who became university employees pursuant to an agreement for transfer to the regents of a county hospital or of the obligation to provide professional medical services at a county hospital, and who under that agreement had the right and did elect to continue membership in the county’s retirement system established under this chapter.

(h) “District” also includes the South Coast Air Quality Management District, a new public agency created on February 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400) of Part 3 of Division 26 of the Health and Safety Code.

(1) Employees of the South Coast Air Quality Management District shall be deemed to be employees of a new public agency occupying new positions on February 1, 1977. On that date, those new positions are deemed not to have been covered by any retirement system.

(2) No retirement system coverage may be effected for an employee of the South Coast Air Quality Management District who commenced employment with the district during the period commencing on February 1, 1977, and ending on December 31, 1978, unless and until the employee shall have elected whether to become a member of the retirement association established in accordance with this chapter for employees of Los Angeles County or the retirement association established in accordance with this chapter for employees of San Bernardino County. The election shall occur before January 1, 1980. Any employee who fails to make the election provided for herein shall be deemed to have elected to become a member of the retirement association established in accordance with this chapter for the County of Los Angeles.

(3) The South Coast Air Quality Management District shall make application to the retirement associations established in accordance with this chapter for employees of Los Angeles County and San Bernardino County for coverage of employees of the South Coast Air Quality Management District.

(4) An employee of the South Coast Air Quality Management District who commenced employment with the district during the period commencing on February 1, 1977, and ending on December 31, 1978, and who has not terminated employment before January 1, 1980, shall be covered by the retirement association elected by the employee pursuant to paragraph (2). That coverage shall be effected no later than the first day of the first month following the date of the election provided for in paragraph (2).

(5) Each electing employee shall receive credit for all service with the South Coast Air Quality Management District. However, the elected retirement association may require, as a prerequisite to granting that credit, the payment of an appropriate sum of money or the transfer of funds from another retirement association in an amount determined by an enrolled actuary and approved by the elected retirement association's board. The amount to be paid shall include all administrative and actuarial costs of making that determination. The amount to be paid shall be shared by the South Coast Air Quality Management District and the employee. The share to be paid by the employee shall be determined by good faith bargaining between the district and the recognized employee organization, but in no event shall the employee be required to

contribute more than 25 percent of the total amount required to be paid. The elected retirement association's board may not grant that credit for that prior service unless the request for that credit is made to, and the required payment deposited with, the elected retirement association's board no earlier than January 1, 1980, and no later than June 30, 1980. The foregoing shall have no effect on any employee's rights to reciprocal benefits under Article 15 (commencing with Section 31830).

(6) An employee of the South Coast Air Quality Management District who commenced employment with the district after December 31, 1978, shall be covered by the retirement association established in accordance with this chapter for employees of San Bernardino County. That coverage shall be effected as of the first day of the first month following the employee's commencement date.

(7) Notwithstanding paragraphs (2) and (4) above, employees of the South Coast Air Quality Management District who were employed between February 1, 1977, and December 31, 1978, and who terminate their employment between February 1, 1977, and January 1, 1980, shall be deemed to be members of the retirement association established in accordance with this chapter for the employees of Los Angeles County commencing on the date of their employment with the South Coast Air Quality Management District.

(i) "District" also includes any nonprofit corporation that operates one or more museums within a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, pursuant to a contract between the corporation and the board of supervisors of the county, and that has entered into an agreement with the board and the county setting forth the terms and conditions of the corporation's inclusion in the county's retirement system.

(j) "District" also includes any economic development association funded in whole or in part by a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, and that has entered into an agreement with the board of supervisors and the county setting forth the terms and conditions of the association's inclusion in the county's retirement system.

(k) “District” also includes any special commission established in the Counties of Tulare and San Joaquin as described by Section 14087.31 of the Welfare and Institutions Code, pursuant to a contract between the special commission and the county setting forth the terms and conditions of the special commission’s inclusion in the county’s retirement system with the approval of the board of supervisors and the board of retirement.

(l) (1) “District” also includes the retirement system established under this chapter in Orange County.

(2) “District” also includes the retirement system established under this chapter in San Bernardino County at such time as the board of retirement, by resolution, makes this section applicable in that county.

(m) “District” also includes the Kern County Hospital Authority, a public agency that is a local unit of government established pursuant to Chapter 5.5 (commencing with Section 101852) of Part 4 of Division 101 of the Health and Safety Code.

SEC. 1.5. Section 31468 of the Government Code is amended to read:

31468. (a) “District” means a district, formed under the laws of the state, located wholly or partially within the county other than a school district.

(b) “District” also includes any institution operated by two or more counties, in one of which there has been adopted an ordinance placing this chapter in operation.

(c) “District” also includes any organization or association authorized by Chapter 26 of the Statutes of 1935, as amended by Chapter 30 of the Statutes of 1941, or by Section 50024, which organization or association is maintained and supported entirely from funds derived from counties, and the board of any retirement system is authorized to receive the officers and employees of that organization or association into the retirement system managed by the board.

(d) “District” also includes, but is not limited to, any sanitary district formed under Part 1 (commencing with Section 6400) of Division 6 of the Health and Safety Code.

(e) “District” also includes any city, public authority, public agency, and any other political subdivision or public corporation formed or created under the constitution or laws of this state and located or having jurisdiction wholly or partially within the county.

(f) “District” also includes any nonprofit corporation or association conducting an agricultural fair for the county pursuant to a contract between the corporation or association and the board of supervisors under the authority of Section 25905.

(g) “District” also includes the Regents of the University of California, but with respect only to employees who were employees of a county in a county hospital, who became university employees pursuant to an agreement for transfer to the regents of a county hospital or of the obligation to provide professional medical services at a county hospital, and who under that agreement had the right and did elect to continue membership in the county’s retirement system established under this chapter.

(h) “District” also includes the South Coast Air Quality Management District, a new public agency created on February 1, 1977, pursuant to Chapter 5.5 (commencing with Section 40400) of Part 3 of Division 26 of the Health and Safety Code.

(1) Employees of the South Coast Air Quality Management District shall be deemed to be employees of a new public agency occupying new positions on February 1, 1977. On that date, those new positions are deemed not to have been covered by any retirement system.

(2) No retirement system coverage may be effected for an employee of the South Coast Air Quality Management District who commenced employment with the district during the period commencing on February 1, 1977, and ending on December 31, 1978, unless and until the employee shall have elected whether to become a member of the retirement association established in accordance with this chapter for employees of Los Angeles County or the retirement association established in accordance with this chapter for employees of San Bernardino County. The election shall occur before January 1, 1980. Any employee who fails to make the election provided for herein shall be deemed to have elected to become a member of the retirement association established in accordance with this chapter for the County of Los Angeles.

(3) The South Coast Air Quality Management District shall make application to the retirement associations established in accordance with this chapter for employees of Los Angeles County and San Bernardino County for coverage of employees of the South Coast Air Quality Management District.

(4) An employee of the South Coast Air Quality Management District who commenced employment with the district during the period commencing on February 1, 1977, and ending on December 31, 1978, and who has not terminated employment before January 1, 1980, shall be covered by the retirement association elected by the employee pursuant to paragraph (2). That coverage shall be effected no later than the first day of the first month following the date of the election provided for in paragraph (2).

(5) Each electing employee shall receive credit for all service with the South Coast Air Quality Management District. However, the elected retirement association may require, as a prerequisite to granting that credit, the payment of an appropriate sum of money or the transfer of funds from another retirement association in an amount determined by an enrolled actuary and approved by the elected retirement association's board. The amount to be paid shall include all administrative and actuarial costs of making that determination. The amount to be paid shall be shared by the South Coast Air Quality Management District and the employee. The share to be paid by the employee shall be determined by good faith bargaining between the district and the recognized employee organization, but in no event shall the employee be required to contribute more than 25 percent of the total amount required to be paid. The elected retirement association's board may not grant that credit for that prior service unless the request for that credit is made to, and the required payment deposited with, the elected retirement association's board no earlier than January 1, 1980, and no later than June 30, 1980. The foregoing shall have no effect on any employee's rights to reciprocal benefits under Article 15 (commencing with Section 31830).

(6) An employee of the South Coast Air Quality Management District who commenced employment with the district after December 31, 1978, shall be covered by the retirement association established in accordance with this chapter for employees of San Bernardino County. That coverage shall be effected as of the first day of the first month following the employee's commencement date.

(7) Notwithstanding paragraphs (2) and (4) above, employees of the South Coast Air Quality Management District who were employed between February 1, 1977, and December 31, 1978, and who terminate their employment between February 1, 1977, and

January 1, 1980, shall be deemed to be members of the retirement association established in accordance with this chapter for the employees of Los Angeles County commencing on the date of their employment with the South Coast Air Quality Management District.

(i) “District” also includes any nonprofit corporation that operates one or more museums within a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, pursuant to a contract between the corporation and the board of supervisors of the county, and that has entered into an agreement with the board and the county setting forth the terms and conditions of the corporation’s inclusion in the county’s retirement system.

(j) “District” also includes any economic development association funded in whole or in part by a county of the 15th class, as described by Sections 28020 and 28036 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, and that has entered into an agreement with the board of supervisors and the county setting forth the terms and conditions of the association’s inclusion in the county’s retirement system.

(k) “District” also includes any special commission established in the Counties of Tulare and San Joaquin as described by Section 14087.31 of the Welfare and Institutions Code, pursuant to a contract between the special commission and the county setting forth the terms and conditions of the special commission’s inclusion in the county’s retirement system with the approval of the board of supervisors and the board of retirement.

(l) (1) “District” also includes the retirement system established under this chapter in Orange County.

(2) “District” also includes the retirement system established under this chapter in San Bernardino County at such time as the board of retirement, by resolution, makes this section applicable in that county.

(3) “District” also includes the retirement system established under this chapter in Contra Costa County.

(m) “District” also includes the Kern County Hospital Authority, a public agency that is a local unit of government established pursuant to Chapter 5.5 (commencing with Section 101852) of Part 4 of Division 101 of the Health and Safety Code.

SEC. 2. Section 31552.5 is added to the Government Code, to read:

31552.5. Employees and officers of the Kern County Hospital Authority, a public agency that is a local unit of government established pursuant to Chapter 5.5 (commencing with Section 101852) of Part 4 of Division 101 of the Health and Safety Code, shall not automatically become members of the Kern County Employees' Retirement Association, but shall have their eligibility for membership in the Kern County Employees' Retirement Association be established pursuant to the provisions of that chapter.

SEC. 3. Chapter 5.5 (commencing with Section 101852) is added to Part 4 of Division 101 of the Health and Safety Code, to read:

CHAPTER 5.5. KERN COUNTY HOSPITAL AUTHORITY ACT

Article 1. General Provisions

101852. (a) This chapter shall be known and may be cited as the Kern County Hospital Authority Act.

(b) The Legislature finds and declares all of the following:

(1) Kern Medical Center, an acute care hospital currently operated as a constituent department of the County of Kern, is a designated public hospital, as defined in subdivision (d) of Section 14166.1 of the Welfare and Institutions Code, and a critical component of the state's health care safety net.

(2) Counties are authorized under current law to integrate their county hospital services with those of other hospitals into a system of community service that offers free choice of hospitals to those requiring hospital care, with the objective of eliminating discrimination or segregation based on economic disability, so that the county hospital and other hospitals in the community share in providing services to paying patients and to those who qualify for care in public medical care programs. However, in a new era of health care delivery, it is necessary to pursue approaches that transition beyond acute care-centric orientations.

(3) The ongoing evolution of the health care environment requires public entities providing or arranging health care services to pursue innovative health care delivery models that proactively

improve the quality of patient care services and patient experience, efficiently and effectively increase access to needed health care services across the care continuum, provide services in a patient-centered manner, and moderate the rate of growth of health care expenditures.

(4) The board of supervisors of the County of Kern has determined that providing access to affordable, high-quality health care services, and ensuring the full engagement and viability of the health care safety net in the county are essential for improving the health status of the people of the County of Kern. To further this imperative, it is necessary that the Kern Medical Center, while continuing as a designated public hospital and maintaining its mission, is provided with an organizational and operational structure that facilitates and improves its ability to function with flexibility, responsiveness, and innovation to promote a patient-centric system of care delivery featuring community-based care. This can best be accomplished by allowing the operation of the Kern Medical Center, along with other health-related resources, under a new hospital authority that is able to pursue efforts towards a delivery system that embraces population health management strategies, is effectively positioned for health plan-provider alignment, and maximizes opportunities for employees and enhancement of staff morale.

(5) This chapter is necessary to allow the formation of a public hospital authority for the purposes described above.

101852.1. For purposes of this chapter, the following definitions shall apply:

(a) “Authority” means the Kern Hospital System Authority established pursuant to this chapter.

(b) “Board of supervisors” means the board of supervisors of the County of Kern.

(c) “Board of governors” means the governing body of the authority.

(d) “County” means the County of Kern.

(e) “Enabling ordinance” means the county ordinance enacted by the board of supervisors pursuant to this chapter to establish the authority, as it may be amended from time to time.

(f) “Medical center” means the assets and liabilities comprising the Kern Medical Center, including, without limitation, a licensed acute care hospital and related public health care programs,

facilities, care organizations, physician practice plans and delivery systems, which may be hospital-based or nonhospital-based, as specified by the board of supervisors or the authority now or in the future, as the case may be, depending on which entity controls the medical center.

Article 2. Establishment of the Kern County Hospital Authority

101853. (a) Pursuant to this chapter, the board of supervisors may establish by ordinance the Kern County Hospital Authority, which shall be a public agency that is a local unit of government separate and apart from the county and any other public entity for all purposes. The authority established pursuant to this chapter shall file the statement required by Section 53051 of the Government Code, and is a public entity for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(b) The purpose of the authority shall be to do all of the following:

(1) Provide management, administration, and other controls consistent with this chapter as needed to operate the medical center and maintain its status as a designated public hospital, as defined in subdivision (d) of Section 14166.1 of the Welfare and Institutions Code, and for the operation of additional programs, clinics and other facilities, care organizations, health care service and physician practice plans, and delivery systems that may be affiliated or consolidated with the medical center, to ensure the viability of the health care safety net in the county in a manner consistent with the county's requirements under Section 17000 of the Welfare and Institutions Code.

(2) Provide management, administration, and other controls consistent with this chapter to negotiate and enter into contracts to provide or arrange, or provide directly, on a fee-for-service, capitated, or other basis, health care services to individuals including, but not limited to, those covered under Subchapters XVIII (commencing with Section 1395), XIX (commencing with Section 1396), and XXI (commencing with Section 1397aa) of Chapter 7 of Title 42 of the United States Code, those entitled to coverage under private group coverage, private individual coverage, including without limitation, coverage through Covered California,

other publicly supported programs, those employed by public agencies or private businesses, and uninsured or indigent individuals.

(c) Subject to the requirements of this chapter, the authority shall have and be charged with authority for the management, administration, and control of the medical center and other health-related resources. The State Department of Health Care Services shall take all necessary steps to ensure all of the following:

(1) The authority is permitted to operate the medical center.

(2) The medical center continues its status as a designated public hospital to at least the same extent as it would be designated in the absence of its transfer to the authority pursuant to this chapter.

(3) The authority may participate as a contributing public agency for all of the purposes specified in Section 433.51 of Title 42 of the Code of Federal Regulations, to the extent permitted by federal law.

(d) The board of supervisors, in the enabling ordinance, shall establish the terms and conditions of the transfer to the authority from the county, including, but not limited to, all of the following:

(1) Any transfer of real and personal property, assets, and liabilities, including, but not limited to, liabilities of the medical center determined and assigned by the county for county funds previously advanced, but not repaid or otherwise recovered, to fund the operations of the medical center.

(2) Transfer of employees, including any necessary personnel transition plan, as specified in Section 101853.1, allocation of credit for funded pension assets and responsibility for any unfunded pension liabilities under the Kern County Employees' Retirement Association or other retirement plans, and funding of the accrued benefits of employees of the authority in the event of withdrawal from the plan or dissolution of the authority. Any allocation of credit for funded pension assets and responsibility for any unfunded pension liabilities with respect to the Kern County Employees' Retirement Association must be approved by its governing board of retirement after consideration of legal and actuarial analysis, and no such allocation may be made that would jeopardize the qualified status of the Kern County Employees' Retirement Association under the federal Internal Revenue Code.

(3) Maintenance, operation, and management or ownership of the medical center.

(4) Transfer of licenses.

(5) Any other matters as the board of supervisors deems necessary, appropriate, or convenient for the conduct of the authority's activities.

(e) (1) Notwithstanding any other law, a transfer of maintenance, operation, and management or ownership or lease of the medical center to the authority may be made, with or without the payment of a purchase price by the authority, and otherwise upon the terms and conditions as found necessary by the board of supervisors and specified in the enabling ordinance to ensure that the transfer will constitute an ongoing material benefit to the county and its residents.

(2) A transfer of the maintenance, operation, and management, or ownership or lease of the medical center to the authority shall not be construed as empowering the authority to transfer any ownership interest of the county in any portion of the medical center except as otherwise approved by the board of supervisors.

(3) The authority shall not transfer the maintenance, operation, and management or ownership or lease of the medical center to any other person or entity without the prior written approval of the board of supervisors. This paragraph shall not prevent the county, by ordinance, from allowing the disposal of obsolete or surplus equipment, supplies, or furnishings of the medical center by the authority.

(4) With respect to the maintenance, operation, and management or ownership or lease of the medical center, the authority shall conform to both of the following requirements:

(A) Comply with any applicable requirements of Section 14000.2 of the Welfare and Institutions Code.

(B) Comply with any applicable requirements of Section 1442.5.

(5) The board of supervisors may retain control of the medical center physical plant and facilities, as specifically provided for in the enabling ordinance or other lawful agreements entered into by the board of supervisors. Any lease agreement between the county and the authority shall provide that county premises shall not be sublet without the approval of the board of supervisors.

(6) Notwithstanding any other provision of this chapter, and whether or not accompanied by a change in licensing, the authority's responsibility for the maintenance, operation, and management of the medical center, or any ownership or leasehold

interest of the authority in the medical center, does not relieve the county of the ultimate responsibility for indigent care pursuant to Section 17000 of the Welfare and Institutions Code.

(7) For purposes of Article 12 (commencing with Section 17612.1) of Chapter 6 of Part 5 of Division 9 of the Welfare and Institutions Code, and the definition set forth in subdivision (f) of Section 17612.2 of the Welfare and Institutions Code, the medical center, excluding components that provide predominately public health services, and the county are affiliated governmental entities.

(f) The board of supervisors may contract with the authority for the provision of indigent care services on behalf of the county. The contract shall specify that county policies, as may be modified from time to time and consistent with the county's obligations under Section 17000 of the Welfare and Institutions Code, shall be applicable. Notwithstanding any other provision of this chapter, the authority shall not undertake any of the county's obligations under Section 17000 of the Welfare and Institutions Code, nor shall the authority have an entitlement to receive any revenue for the discharge of the county's obligations, without a written agreement with the county. Any contract executed by and between the county and the authority shall provide for the indemnification of the county by the authority for liabilities as specifically set forth in the contract, except that the contract shall include a provision that the county shall remain liable for its own negligent acts. Indemnification by the authority shall not divest the county from its ultimate responsibility for compliance with Section 17000 of the Welfare and Institutions Code.

(g) Unless otherwise agreed to by the authority and the board of supervisors, an obligation of the authority, statutory, contractual, or otherwise, shall be the obligation solely of the authority and shall not be the obligation of the county or any other entity, and any contract executed by and between the county and the authority, or any other entity and the authority, shall contain a provision that liabilities or obligations of the authority with respect to its activities pursuant to the contract shall be the liabilities or obligations of the authority and shall not be or become the liabilities or obligations of the county or the other entity, respectively. An obligation of the authority, statutory, contractual, or otherwise, shall not be the obligation of the state.

(h) The authority shall not be a “person” subject to suit under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code).

(i) The authority is not subject to the jurisdiction of a local agency formation commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code), or any successor statute.

(j) The authority is a “district” within the meaning set forth in the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code). Employees of the authority are eligible to become members or maintain membership, as applicable, in the Kern County Employees’ Retirement Association, to the extent described in subdivision (g) of Section 101853.1.

(k) Any determination with respect to the manner in which the authority qualifies as a governmental plan sponsor under Section 414(d) of the Internal Revenue Code shall be limited to relevant employee benefits purposes of that code only, and shall not change or otherwise modify the authority’s status as a public agency that is a unit of local government for other purposes specified in this chapter.

101853.1. (a) In exercising its powers to employ personnel, the authority shall implement, and the board of supervisors shall adopt, a personnel transition plan. The personnel transition plan shall require all of the following:

(1) Ongoing communication to employees and recognized employee organizations regarding the impact of the transition on existing medical center, county, and other health care facility employees and employee classifications.

(2) Meeting and conferring with representatives of affected bargaining unit employees on both of the following issues:

(A) A timeframe for which the transfer of personnel shall occur.

(B) Specified periods of time during which county or medical center employees affected by the establishment of the authority may elect to be considered for appointment and exercise reinstatement rights, if applicable, to funded, equivalent, vacant county positions for which they are qualified and eligible. An employee who first elects to remain with the county may subsequently seek reinstatement with the authority within 30 days

of the election to remain with the county and shall be subject to the requirements of this article.

(3) Acknowledgment that the authority, to the extent permitted by federal and state law, shall be bound by the terms of the memoranda of understanding executed between the county and its exclusive employee representatives that are in effect on the date the county adopts the enabling ordinance pursuant to this chapter. Subsequent memoranda of understanding with exclusive employee representatives shall be subject to approval only by the board of governors.

(4) Communication to the Board of Retirement of the Kern County Employees' Retirement Association or other retirement plan of any personnel transition plan, memoranda of understanding, or other arrangements that are related to the participation of the authority's employees or the addition of new employees in the retirement plan.

(b) Implementation of this chapter shall not be a cause for the modification of the medical center or county employment benefits. Upon the execution of the enabling ordinance, employees of the medical center or county on the date of execution, who become authority employees, shall retain their existing or equivalent classifications and job descriptions upon transfer to the authority, comparable pension benefits (if permissible pursuant to relevant plan terms), and their existing salaries and other benefits that include, but are not limited to, accrued and unused vacation, sick leave, personal leave, health care, retiree health benefits, and deferred compensation plans. The transfer of an employee from the medical center or county shall not constitute a termination of employment for purposes of Section 227.3 of the Labor Code, or employee benefit plans and arrangements maintained by the medical center or county, except as otherwise provided in the enabling ordinance or personnel transition plan, nor shall it be counted as a break in uninterrupted employment for purposes of Section 31641 of the Government Code with respect to the Kern County Employees' Retirement Association, or state service for purposes of the Public Employees' Retirement System (Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code).

(c) Subject to applicable state law, the authority shall recognize the exclusive employee representatives of those authority

employees who are transferred from the county or medical center to the authority pursuant to this chapter.

(d) In order to stabilize labor and employment relations and provide continuity of care and services to the people of the county, and notwithstanding any other law, the authority shall do all of the following for a period of 24 months after the effective date of the transfer of the medical center to the authority:

(1) Continue to recognize each exclusive employee representative of each bargaining unit.

(2) Continue to provide the same level of employee benefits to authority employees, whether the obligation to provide those benefits arise out of a memorandum of understanding, or other agreements or law.

(3) Extend and continue to be bound by any existing memoranda of understanding covering the terms and conditions of employment for employees of the authority, including the level of wages and benefits, and any county rules, ordinances, or policies specifically identified and incorporated by reference in a memoranda of understanding for 24 months or through the term of the memorandum of understanding, whichever shall be the longer, unless modified by mutual agreement with each of the exclusive employee representatives. The authority shall continue to provide those pension benefits specified in any memoranda of agreement as long as doing so does not conflict with any Kern County Employee Retirement Association plan provisions, or federal or state law including the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code and the federal Internal Revenue Code).

(4) Meet and confer with the exclusive employee representatives to develop processes and procedures to address employee disciplinary action taken against permanent employees. If the authority terminates, suspends, demotes, or reduces the pay of a permanent employee for disciplinary reasons, those actions shall only be for cause consistent with state law, and an employee shall be afforded applicable due process protections granted to public employees under state law. Permanent employees laid off by the authority within six months of the date the ordinance is adopted shall remain on the county reemployment list for two years. Inclusion on the county reemployment list is not a guarantee of

reemployment. For the purposes of this paragraph, the term “permanent employees” excludes probationary employees, temporary employees, seasonal employees, provisional employees, extra help employees, and per diem employees.

(5) To the extent layoffs occur, and provided that all other previously agreed upon factors are equal, ensure that seniority shall prevail. The authority shall meet and confer with the exclusive employee representatives to address layoff procedures and the manner in which, and the extent to which, seniority shall be measured for employees who transfer from the medical center or county.

(e) Permanent employees of the medical center or county on the effective date of the transfer of the medical center to the authority, shall be deemed qualified for employment in equivalent positions at the authority, and no other qualifications shall be required except as otherwise required by state or federal law. Probationary employees on the effective date of the transfer, as set forth in this paragraph, shall retain their probationary status and rights and shall not be required to serve a new probationary or extend their probationary period by reason of the transfer. To the extent possible, employees who transfer to equivalent positions at the authority shall retain their existing classifications and job descriptions, but if there is a dispute over this issue, the authority agrees to meet and confer with the exclusive employee representatives of the transferred employees.

(f) Employees who transfer from the medical center or county to the authority shall retain the seniority they earned at the medical center or county and any benefits or privileges based on the seniority.

(g) Notwithstanding any other law, employees of the authority may participate in the Kern County Employees’ Retirement Association, operated pursuant to the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code) as set forth below. However, the authority and employees of the authority, or certain designated parts thereof, shall not participate in the Kern County Employees’ Retirement Association if the board of retirement, in its sole discretion, determines that their participation could jeopardize the Kern County Employees’ Retirement Association’s tax-qualified or governmental plan status

under federal law, or if a contract or related contract amendment proposed by the authority contains any benefit provisions that are not specifically authorized by Chapters 3 (commencing with Section 31450) and 3.9 (commencing with Section 31899) of Part 3 of Division 4 of Title 3 of the Government Code or Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1 of the Government Code, and that the board determines would adversely affect the administration of the system. There shall not be any individual employee elections regarding participation in the Kern County Employees' Retirement Association or other retirement plans except to the extent such retirement plans provide for elective employee salary deferral contributions in accordance with federal Internal Revenue Code rules.

(1) Employees transferred from the county or medical center to the authority who are subject to a memorandum of understanding between the authority and an exclusive employee representative, as described in paragraphs (2) and (3) of subdivision (d), and who were members of the Kern County Employees' Retirement Association at the time of their transfer of employment, shall continue to be a member of the Kern County Employees' Retirement Association, retaining service credit earned to the date of transfer, to the extent provided for in the applicable memorandum of understanding.

(2) Employees transferred from the county or medical center to the authority who are subject to a memorandum of understanding between the authority and an exclusive employee representative, as described in paragraphs (2) and (3) of subdivision (d), and who were not members of the Kern County Employees' Retirement Association at the time of their transfer of employment, shall subsequently become a member of the Kern County Employees' Retirement Association only to the extent provided for in the applicable memorandum of understanding.

(3) Employees transferred from the county or medical center to the authority who are not subject to a memorandum of understanding between the authority and an exclusive employee representative, as described in paragraphs (2) and (3) of subdivision (d), and who were members of the Kern County Employees' Retirement Association at the time of their transfer of employment, shall continue to be a member of the Kern County Employees'

Retirement Association, retaining service credit earned to the date of transfer, as provided in the enabling ordinance or the personnel transition plan.

(4) Employees transferred from the county or medical center to the authority who are not subject to a memorandum of understanding between the authority and an exclusive employee representative, as described in paragraphs (2) and (3) of subdivision (d), and who were not members of the Kern County Employees' Retirement Association at the time of their transfer of employment, shall subsequently become a member of the Kern County Employees' Retirement Association only to the extent provided in the enabling ordinance or the personnel transition plan.

(5) Employees hired by the authority on or after the effective date of the enabling ordinance shall become a member of the Kern County Employees' Retirement Association only to the extent provided in the enabling ordinance or personnel transition plan described in subdivision (a), or, if subject to a memorandum of understanding between the authority and an exclusive employee representative as described in paragraphs (2) and (3) of subdivision (d), to the extent provided for in the applicable memorandum of understanding.

(6) Notwithstanding any other law, for purposes of California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1 of the Government Code), an individual who was employed by the county or the medical center when it was a constituent department of the county, and is a member of the Kern County Employees' Retirement Association or the Public Employees' Retirement System, as set forth in Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, prior to January 1, 2013, and who transfers, directly or after a break in service of less than six months, to the authority, in which the individual continues to be a member of either the Kern County Employees' Retirement Association or the Public Employees' Retirement System, as applicable, shall not be deemed to be a new employee or a new member within the meaning of Section 7522.04 of the Government Code, and shall continue to be subject to the same defined benefit formula, as defined in Section 7522.04 of the Government Code, to which the member was subject immediately prior to the transfer.

(h) This chapter shall not prohibit the authority from contracting with the Public Employees' Retirement System, in accordance with the requirements of Section 20508 and any other applicable provisions of Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, for the purpose of providing employee participation in that system, or from establishing an alternative or supplemental retirement system or arrangement, including, but not limited to, deferred compensation arrangements, to the extent permitted by law and subject to any applicable agreement between the authority and the exclusive employee representatives, and as provided in the enabling ordinance or the personnel transition plan. Notwithstanding any other law, the authority and employees of the authority shall not participate in the Public Employees' Retirement System if the Board of Administration of the Public Employees' Retirement System, in its sole discretion, determines that their participation could jeopardize the Public Employees' Retirement System's tax-qualified or governmental plan status under federal law, or if a contract or related contract amendment proposed by the authority contains any benefit provisions that are not specifically authorized by Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, and that the board determines would adversely affect the administration of the system.

(i) Provided that this is not inconsistent with anything in this chapter, this chapter does not prohibit the authority from determining the number of employees, the number of full-time equivalent positions, job descriptions, the nature and extent of classified employment positions, and salaries of employees.

Article 3. Board of Governors

101854. (a) The authority established pursuant to this chapter shall be governed by a board of governors that is appointed, both initially and continually, by the board of supervisors. The board of supervisors, in the enabling ordinance, shall specify the number of members and the composition of membership of the board of governors, the qualifications for individual members, the manner of appointment, selection, or removal of board of governors members, their terms of office, and all other matters that the board of supervisors deems necessary or convenient for the conduct of

the board of governors. Notwithstanding any other law, at the board of supervisors' discretion and as specified in the enabling ordinance, the board of governors may consist entirely of members of the board of supervisors or may include any number of the members of the board of supervisors or county officers or employees appointed to represent the interest of the county.

(b) The board of supervisors, either during or after the formation of the authority, may modify the number, length of terms, qualifications, method of appointment, and provisions for all other matters pertaining to the board of governors by subsequent ordinance.

(c) The board of supervisors shall adopt bylaws for the authority that, among other things, shall specify the officers of the board of governors, the time, place, and conduct of meetings, and other matters that the board of supervisors deems necessary or appropriate to conduct the authority's activities. The bylaws shall be operative upon approval by a majority vote of the board of supervisors, but may be amended, from time to time, by a majority vote of the board of supervisors.

(d) Notwithstanding any other law, a member of the board of governors shall not be deemed to be interested in a contract entered into by the authority within the meaning of Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code if either of the following apply:

(1) The contract is between the authority and the county or an agency of the county, and the member is also a member of the board of supervisors, or is a county officer or employee appointed to represent the interests of the county.

(2) All the following applies to the member:

(A) The member was appointed to represent the interests of physicians, health care practitioners, hospitals, pharmacies, or other health care organizations, or beneficiaries.

(B) The contract authorizes the member or the organization the member represents to provide services to beneficiaries under the authority's programs.

(C) The contract contains substantially the same terms and conditions as contracts entered into with other individuals or organizations that the member was appointed to represent.

(D) The member does not influence or attempt to influence the hospital authority or another member of the authority to enter into the contract in which the member is interested.

(E) The member discloses the interest to the authority and abstains from voting on the contract.

(F) The board of governors notes the member's disclosure and abstention in its official records and authorizes the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote of the interested member.

(e) Members of the board of governors shall not be vicariously liable for injuries caused by the act or omission of the authority to the extent that protection applies to members of governing boards of local public entities generally under Section 820.9 of the Government Code.

(f) The board of governors created and appointed pursuant to this chapter is a duly constituted governing body as the term is used in Section 1250 and defined in Section 70035 of Title 22 of the California Code of Regulations.

(g) In the event of a change of license ownership, the board of governors shall comply with the obligations of governing bodies of general acute care hospitals generally as set forth in Section 70701 of Title 22 of the California Code of Regulations, as currently written or subsequently amended, as well as the terms and conditions of the license. The authority shall be the responsible party with respect to compliance with these obligations, terms, and conditions.

Article 4. Powers and Duties of the Authority

101855. (a) The authority, in addition to any other powers granted pursuant to this chapter, shall have the following powers:

(1) To have the duties, privileges, immunities, rights, liabilities, and limitations of a local unit of government within the state.

(2) To have perpetual existence, subject to Article 5 (commencing with Section 101856).

(3) To adopt, have, and use a seal, and to alter it at its pleasure.

(4) To sue and be sued in the name of the authority in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(5) To purchase, lease, trade, exchange, or otherwise acquire, maintain, hold, improve, mortgage, lease, sell, and dispose of real and personal property of any kind necessary or convenient to perform its functions and fully exercise its powers.

(6) To appoint and employ a chief executive officer and other officers and employees that may be necessary or appropriate, including legal counsel, to establish their compensation, provide for their health, retirement, and other employment benefits, and to define the power and duties of officers and employees.

(7) (A) To incur indebtedness and to borrow money and issue bonds evidencing the same, including the authority to issue, from time to time, notes and revenue bonds in principal amounts that the authority determines to be necessary to provide sufficient funds for achieving any of its purposes, including, but not limited to, assumption or refinancing of debt service for capital projects eligible for Medi-Cal supplemental payments pursuant to Section 14085.5 of the Welfare and Institutions Code, or any successor or modified Medi-Cal debt service reimbursement program, the payment of interest on notes and bonds of the authority, the establishment of reserves to secure those notes and bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers.

(B) Any notes, bonds, or other securities issued, and the income from them, including any profit from the sale thereof, shall at all times be free from taxation by the state or any agency, political subdivision, or instrumentality of the state.

(C) Notwithstanding the provisions of subparagraph (A), for any indebtedness, notes, bonds, or other securities that require voter approval pursuant to state law, the prior approval of the board of supervisors shall be required. Notwithstanding the required prior approval of the board of supervisors, any indebtedness incurred, or notes, bonds, or other securities issued pursuant to this subparagraph shall be the indebtedness, notes, bonds, or securities of the authority and not of the county, and the credit of the county shall not be pledged or relied upon in any manner in order to incur the indebtedness, or issue the notes, bonds, or other securities, unless the board of supervisors explicitly authorizes the use of the county's credit. The authority shall reimburse the county for all costs associated with the county's consideration of the indebtedness, notes, bonds, or securities, and the authority shall

defend, indemnify, and hold harmless the county from any and all liability, costs, or expenses arising from or related to the indebtedness, notes, bonds, or securities.

(D) Nothing in this section shall preclude the authority from repayment of its debts or other liabilities, using funds that are not otherwise encumbered.

(8) To pursue its own credit rating.

(9) To enter into a contract or agreement consistent with this chapter or the laws of this state, including, but not limited to, contracting with any public or private entity or person for management or other services and personnel, and to authorize the chief executive officer to enter into contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this chapter.

(10) To purchase supplies, equipment, materials, property, and services.

(11) To establish policies relating to its purposes.

(12) To acquire or contract to acquire, rights-of-way, easements, privileges, and property, and to construct, equip, maintain, and operate any and all works or improvements wherever located that are necessary, convenient, or proper to carry out any of the provisions, objects, or purposes of this chapter, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it.

(13) To participate in, contract for, and to accept, gifts, grants, and loans of funds, property, or other aid or finance opportunity in any form from the federal government, the state, a state agency, or other source, or combination thereof, as otherwise would be available to a public, government, or private entity, and to comply, subject to this chapter, with the terms and conditions thereof.

(14) To invest surplus money in its own treasury, manage investments, and engage third-party investment managers, in accordance with state law.

(15) To arrange for guarantees or insurance of its bonds, notes, or other obligations by the federal or state government or by a private insurer, and to pay the premiums thereof.

(16) To engage in managed care contracting, joint ventures, affiliations with other health care facilities, other health care providers and payers, management agreements, or to participate in alliances, purchasing consortia, health insurance pools,

accountable care organizations, alternative delivery systems, or other cooperative arrangements, with any public or private entity.

(17) To enter into joint powers agreements pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code. Notwithstanding any other law, the authority may enter into a joint powers agreement as described in Section 6523.5 of the Government Code as though that section applied to hospitals and other health care facilities in the County of Kern.

(18) To establish nonprofit, for-profit, or other entities necessary to carry out the duties of the authority.

(19) To elect to transfer funds to the state and incur certified public expenditures in support of the Medi-Cal program and other programs for which federal financial participation is available.

(20) To use a computerized management information system, including an electronic health records system, in connection with its operations, including, without limitation the administration of its facilities.

(21) To request that the board of supervisors levy a tax on behalf of the authority. If the board of supervisors approves the proposal to levy the tax, it shall call the election to seek voter approval and place the appropriate measure on the ballot for that election. The proceeds of these taxes shall be tax proceeds of the authority and not of the county. The authority shall reimburse the county for all costs associated with the county's consideration of those taxes, and shall defend, indemnify, and hold harmless the county from any liability, costs, or expenses arising from or related to the imposition of these taxes.

(22) Notwithstanding the provisions of this chapter relating to the obligations and liabilities of the authority, or any other law, a transfer of control or ownership of the medical center to the authority pursuant to this chapter shall confer onto the authority all the rights, privileges, and authority set forth in state law to own, operate, and provide coverage and services through hospitals, clinics and other health facilities, health programs, care organizations, physician practice plans, delivery systems, health care service plans, and other coverage mechanisms that may be owned or operated by a county.

(23) To engage in other activities that may be in the best interests of the authority and the persons served by the authority, as

determined by the board of governors, in order to respond to changes in the health care industry.

(b) The authority shall conform to the following requirements:

(1) (A) Be a government agency that is a local unit of government separate and apart for all purposes from the county and any other public entity, and shall not be considered to be an agency, division, or department of the county or any other public entity. The authority shall not be governed by or subject to the civil service requirements of the county. Except as otherwise provided for in the enabling ordinance consistent with this chapter, and as set forth in Section 101853.1 relating to the personnel transition plan, the authority shall not be governed by, or subject to, other policies or operational rules of the county, medical center, or any other public entity, including, but not limited to, those relating to personnel and procurement.

(B) The board of governors shall adopt written rules, regulations, and procedures with regard to basic human resource functions not inconsistent with memoranda of understanding covering employees represented by employee organizations or the provisions of this chapter. Until the time that the board of governors adopts its own rules, regulations, or procedures with regard to these functions, the existing rules, regulations, and procedures set forth in any memoranda of understanding described in Section 101853.1, and the rules and regulations adopted by the county and described in paragraph (4), shall continue to apply.

(2) Be subject to state and federal taxation laws that are applicable to public entities generally.

(3) Except as otherwise specifically provided in this chapter, comply with the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code), the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(4) Be subject to the jurisdiction of the Public Employment Relations Board. Until the authority adopts rules and regulations pursuant to subdivision (a) of Section 3507 of the Government Code, the existing rules adopted by the county and contained in the county's employer-employee relations resolution, as amended,

shall apply, modified to account for the creation of the authority, and provided further that the resolution shall not contain any incorporation of the county's civil service rules or county ordinances unless specifically addressed in this chapter.

(5) Carry professional and general liability insurance or programs to the extent sufficient to cover its activities.

(6) Comply with the requirements of Sections 53260 and 53261 of the Government Code.

(7) Maintain financial and accounting records.

(8) Meet all local, state, and federal data reporting requirements.

(c) Subject to any restrictions applicable to public agencies, and subject to any limitations or conditions set forth in the enabling ordinance adopted by the board of supervisors, the authority may borrow money from the county, repay debt it owes to the county, and use the borrowed funds to provide for its operating and capital needs. The county may lend the authority funds or issue revenue anticipation notes to obtain those funds necessary to meet its operating or capital needs.

(d) Open sessions of the authority shall constitute official proceedings authorized by law within the meaning of Section 47 of the Civil Code. The privileges set forth in that section with respect to official proceedings shall apply to open sessions of the authority.

(e) (1) Notwithstanding any other law, the board of governors may order that a meeting held solely for the purpose of discussion or taking action on authority trade secrets, as defined in subdivision (d) of Section 3426.1 of the Civil Code, or to consider and take action on matters pertaining to contracts and contract negotiations concerning all matters related to rates of payment for health care services arranged or provided by the authority, shall be held in closed session. Trade secrets for purposes of this chapter shall also include information for which the secrecy of the information is necessary for the authority to initiate a new service, program, marketing strategy, business plan, or technology, or to add a benefit or product, and premature disclosure of the trade secret would create a substantial probability of depriving the authority of a substantial economic benefit or opportunity.

(2) The requirements of making a public report of actions taken in closed session and the vote or abstention of every member present may be limited to a brief general description devoid of the

information constituting the trade secret or concerning the matters related to rates of payment.

(3) Those records of the authority that reveal the authority's trade secrets are exempt from disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), or any similar local law requiring the disclosure of public records. This exemption shall apply for a period of two years after the service, program, marketing strategy, business plan, technology, benefit, or product that is the subject of the trade secret is formally adopted by the governing body of the authority, provided that the service, program, marketing strategy, business plan, technology, benefit, or product continues to be a trade secret. The board of governors may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session that are provided to persons who have made the timely or standing request.

(4) This chapter shall not prevent the board of governors from meeting in closed session as otherwise provided by law.

(f) Notwithstanding any other law, those records of the authority and of the county that reveal the authority's rates of payment for health care services arranged or provided by the authority or its deliberative processes, strategies, discussions, communications, or any other portion of the negotiations with providers of health care services or Medi-Cal, health care plans, or other payers for rates of payment, shall not be required to be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), or any similar local law requiring the disclosure of public records. However, three years after a contract or amendment to a contract is fully executed, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(g) The authority shall be a public agency that is a local unit of government for purposes of eligibility with respect to grants and other funding and loan guarantee programs. Contributions to the authority shall be tax deductible to the extent permitted by state and federal law. Nonproprietary income of the authority shall be exempt from state income taxation.

(h) Unless otherwise provided by the board of supervisors by way of resolution, the authority is empowered, or the board of supervisors is empowered on behalf of the authority, to apply as

a public agency for one or more licenses for the provision of health care or the operation of a health care service plan pursuant to statutes and regulations governing licensing as currently written or subsequently amended.

(i) The statutory authority of a board of supervisors to prescribe rules that authorize a county hospital to integrate its services with those of other providers into a system of community service that offers free choice of hospitals to those requiring hospital care, as set forth in Section 14000.2 of the Welfare and Institutions Code, shall apply to the authority and the board of governors.

(j) (1) Except as otherwise provided in this chapter, provisions of the Evidence Code, the Government Code, including the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), the Civil Code, the Business and Professions Code, and other applicable law pertaining to the confidentiality of peer review activities of peer review bodies shall apply to the peer review activities of the authority, or any peer review body, as defined in paragraph (1) of subdivision (a) of Section 805 of the Business and Professions Code, formed pursuant to the powers granted to the authority. The laws pertaining to the confidentiality of peer review activities shall be together construed as extending, to the extent permitted by law, the maximum degree of protection of confidentiality.

(2) Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, and Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, the Government Code, or any other provision of law, any peer review body formed pursuant to the powers granted to the authority, may, at its discretion and without notice to the public, meet in closed session, so long as the purpose of the meeting is the peer review body's discharge of its responsibility to evaluate and improve the quality of care rendered by health facilities and health practitioners. The peer review body and its members shall receive, to the fullest extent, all immunities, privileges, and protections available to those peer review bodies, their individual members, and persons or entities assisting in the peer review process, including those afforded by Section 1157 of the Evidence Code and Section 1370. Peer review proceedings shall constitute an official proceeding authorized by law within the meaning of Section 47 of the Civil Code and those privileges set forth in that

section with respect to official proceedings shall apply to peer review proceedings of the authority.

(3) Notwithstanding the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), or Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, and Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, the Government Code, or any other provision of state or local law requiring disclosure of public records, those records of a peer review body formed pursuant to the powers granted to the authority, shall not be required to be disclosed. The records and proceedings of the peer review body and its individual members shall receive, to the fullest extent, all immunities, privileges, and protections available to those records and proceedings, including those afforded by Section 1157 of the Evidence Code and Section 1370 of the Health and Safety Code.

(4) If the authority is required by law or contractual obligation to submit to the state or federal government peer review information or information relevant to the credentialing of a participating provider, that submission shall not constitute a waiver of confidentiality.

(5) Notwithstanding any other law, Section 1461 shall apply to hearings on reports of hospital medical audit or quality assurance committees.

(k) Except as expressly provided by other provisions of this section, all exemptions and exclusions from disclosure as public records pursuant to this chapter and the California Public Records Act, including, but not limited to, those pertaining to trade secrets and information withheld in the public interest, shall be fully applicable to the authority, and for the board of supervisors, and all state and local agencies with respect to all writings that the authority is required to prepare, produce, or submit, and which shall not constitute a waiver of exemption from disclosure.

(l) The authority and the county, or any combination thereof, may engage in marketing, advertising, and promotion of the medical and health care services made available to the community by the authority.

(m) The board of governors shall have authority over procurement and contracts for the authority. The board of governors shall adopt written rules, regulations, and procedures with regard

to these functions. Contracts by and between the authority and a public agency, and contracts by and between the authority and providers of health care, goods, or services, may be let on a nonbid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(n) The authority may contract with the county for services and personnel upon mutually agreeable terms.

(o) Notwithstanding Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1 of the Government Code, related to incompatible activities, Section 1099 of the Government Code, related to incompatible offices, or any other law, a member of the authority's administrative staff shall not be considered to hold an incompatible office or to be engaged in activities inconsistent and incompatible with his or her duties as a result of his or her employment or affiliation with the county or an agency of the county.

(p) The board of governors and the officers and employees of the authority are public employees for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees, and shall be protected by the immunities applicable to public entities and public employees governed by Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code, except as provided by other statutes or regulations that apply expressly to the authority.

101855.1. (a) Transfer by the county to the authority of the maintenance, operation, and management or ownership of the medical center, whether or not the transfer includes the surrendering by the county of the existing general acute care hospital license and corresponding application for a change of ownership of the license, shall not affect the eligibility of the county to undertake, and shall authorize the authority, subject to applicable requirements, to do any of the following:

(1) With the written consent of the county, participate in and receive allocations pursuant to the California Health Care for Indigents Program pursuant to Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code, or similar programs, as may be identified or earmarked by the county for indigent health care services of the type provided by the medical center.

(2) With the written consent of the county, participate in and receive allocations of local revenue fund amounts provided pursuant to Chapter 6 (commencing with Section 17600) of Part 5 of Division 9 of the Welfare and Institutions Code as may be identified or earmarked by the county for indigent health care services of the type provided by the medical center.

(3) Participate in the financing of, as applicable, and receive, Medicaid disproportionate share hospital payments available to a county hospital or designated public hospital, or any other successor or modified payment or funding that is intended to assist hospitals that serve a disproportionate share of low-income patients with special needs. The allocation of Medicaid disproportionate share hospital payments shall be made in consultation with the State Department of Health Care Services and other designated safety net hospitals.

(4) Participate in the financing of, as applicable, and receive, Medi-Cal payments and supplemental reimbursements, including, but not limited to, payments made pursuant to Sections 14105.96, 14105.965, 14166.4, 14182.15, and 14199.2 of the Welfare and Institutions Code, payments described in paragraph (4) of subdivision (b) of Section 14301.4 of, and Section 14301.5 of, the Welfare and Institutions Code, and payments made available to a county provider or designated public hospital, or governmental entity with which it is affiliated, under any other successor or modified Medicaid payment system.

(5) Participate in the financing of, as applicable, and receive, safety net care pool funding, stabilization funding, delivery system reform incentive pool payments, and any other funding available to a county provider or designated public hospital, or governmental entities with which it is affiliated under the Medicaid demonstration project authorized pursuant to Article 5.2 (commencing with Section 14166) and Article 5.4 (commencing with Section 14180) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, or under any other successor or modified Medicaid demonstration project or Medicaid payment system. The allocation of safety net care pool funds shall be made in consultation with the State Department of Health Care Services and other designated safety net hospitals.

(6) Participate in the financing, administration, and provision of services under the Low Income Health Program authorized

pursuant to Part 3.6 (commencing with Section 15909) of Division 9 of the Welfare and Institutions Code, or under any other successor or modified Medicaid demonstration project or Medicaid payment system if the authority enters into an agreement with the county concerning the provision of services by, and payment for these services to, the county.

(7) Participate in and receive direct grant and payment allocations pursuant to Article 5.230 (commencing with Section 14169.50) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, or under any other successor or modified direct grant and payment systems funded by hospital or other provider fee assessments.

(8) Receive Medi-Cal capital supplements pursuant to Section 14085.5 of the Welfare and Institutions Code, or any other successor or modified Medi-Cal debt service reimbursement program. Notwithstanding any other law, supplemental payments shall be made to the medical center under those programs for the debt service costs incurred by the county, and, if applicable, by the authority to the extent that debt service responsibility is refinanced, transferred to, or otherwise assumed by, directly or indirectly, the authority.

(9) Receive any other funds, or preference in the assignment of health care plan enrollees, that would otherwise be available to a county health plan, provider, or designated public hospital, or governmental entity with which it is affiliated.

(b) The transfer of the medical center to the authority pursuant to this chapter shall not otherwise disqualify the county or the authority from participating in any of the following:

(1) Local, state, and federal funding sources either specific to county or other publicly owned or operated health care service plans, hospitals, or other health care providers, including, but not limited to, ambulatory care clinics, health systems, practices, designated public hospitals, or governmental entities with which they are affiliated, for which there are special provisions specific to those plans, hospitals, ambulatory care clinics, health systems, practices, other health care providers or governmental entities with which they are affiliated.

(2) All funding programs in which the county, by itself or on behalf of the medical center had participated prior to the creation of the authority, or would otherwise be qualified to participate in

had the authority not been created, and the maintenance, operation, and management or ownership of the medical center not been transferred to the authority pursuant to this chapter.

Article 5. Dissolution of the Authority

101856. (a) The board of supervisors may find and declare that the authority shall cease to exist. In that event, the board of supervisors shall provide for the disposition of the authority's assets, obligations, and liabilities, which may include the transfer to the county of the medical center and other operations, or specified components of the medical center and other operations, through ordinance, resolution, or other action. Alternatively, the board of supervisors may order the board of governors to develop a plan of dissolution providing for the disposition of all of the assets and liabilities of the authority, which shall be subject to approval by the board of supervisors. Absent written agreement, the county shall not be obligated under any law to assume the authority's obligations or liabilities, or take title to, or custody or control of, the authority's assets.

(b) Upon the disposition of the liabilities of the authority and distribution of any remaining assets, as applicable, the board of supervisors shall rescind the ordinance that established the authority, and the authority shall cease to exist. The board of supervisors shall notify the State Department of Health Care Services 30 days prior to the effective date of the dissolution, and include in the notice whether the county intends for either or both, or specified components of, the medical center or other operations to be transferred to the county upon the effective date of dissolution of the authority.

SEC. 4. The Legislature finds and declares that Section 3 of this act, which adds Chapter 5.5 (commencing with Section 101852) to Part 4 of Division 101 of the Health and Safety Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to enable the Kern County Hospital Authority to successfully operate a delivery system that increases access to health care in the community and proactively improves the quality of patient care services and patient experience, it is imperative that the authority's discussions, deliberative processes, writings, and other communications pertaining to trade secrets or other strategic planning actions, its rates of payments for providing or arranging for health care services, and its peer review functions by which it discharges its responsibility to evaluate and improve the quality of care be protected as confidential information.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 31468 of the Government Code proposed by both this bill and Senate Bill 673. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2015, (2) each bill amends Section 31468 of the Government Code, and (3) this bill is enacted after Senate Bill 673, in which case Section 1 of this bill shall not become operative.

Approved _____, 2014

Governor